

WEST LAFAYETTE POLICE MERIT COMMISSION
MINUTES
June 12, 2006

The West Lafayette Police Merit Commission met in regular session at 7:30 pm in Council Chambers at City Hall on June 12, 2006. In compliance with the Indiana Open Door Law, notice of this regular meeting was sent to the press and posted. Copies of the meeting agenda and unapproved minutes of the May 8, 2006 Regular Meeting, May 22, 2006 Executive Session, and June 7, 2006 Special Session were available at a table adjacent to the entrance to the Council Chambers.

Police Merit Commission President Polles called the meeting to order and presided.

The Pledge of Allegiance was repeated.

PRESENT: Commissioners Don Corrigan, Larry Leverenz, Virginia Nead, John Polles, and Joel Weber.

ALSO PRESENT: Commission Counsel Williams, Police Chief Marvin, Clerk-Treasurer Rhodes, City Attorney Associate Hermes, Human Resources Director Foster, two members of the West Lafayette Police Department, two members of the public, and two members of the press.

APPROVAL OF MINUTES

- A. Commissioner Weber's motion "that the minutes of the May 8, 2006 Regular Meeting be approved as distributed" was unanimously adopted.
- B. Commissioner Weber's motion "that the minutes of the May 22, 2006 Executive Session be approved as distributed" was unanimously adopted.
- C. Commissioner Weber's motion "that the minutes of the June 7, 2006 Special Session be approved as distributed" was unanimously adopted.

OLD BUSINESS

- A. Promotion to fill the vacant Lieutenant position: Commission President Polles reported that Chief Marvin had recommended the promotion of Sergeant William J. Gallagher to fill the vacant Lieutenant position. Chief Marvin reported that after receiving the certified list of names of the candidates to be considered for promotion, he set up an interview panel consisting of himself, Deputy Chief Walker, Captain Francis, and Lieutenant Fohr. Deputy Chief Walker and Lieutenant Fohr established a set of interview questions. Each member of the interview panel was provided with a score sheet for each candidate that contained a variety of categories. After each interview, the individual panel members completed the score sheet for that candidate without any discussion between the panel members. After both candidates were scored by all panel members individually, the scores were added from all panel members for each candidate.

The candidate with the highest score, Sergeant Gallagher, was then recommended to the Commission for promotion. Commissioner Weber's motion "to promote Sergeant William J. Gallagher to the vacant Lieutenant position" was unanimously adopted. Clerk-Treasurer Rhodes administered the oath of office. Chief Marvin, assisted by Mrs. Gallagher, then pinned the new rank insignia on Lieutenant Gallagher's collar.

- B. Disciplinary Hearing Written Findings of Fact and Order as agreed to at the June 9, 2006 Special Meeting: Commissioner Corrigan's motion that "the written Findings of Facts and Order in the disciplinary matter of George L. Weast be adopted, approved, and entered into the record" was unanimously adopted.
- C. Sergeant's Examination: Commissioner Weber reported that the Sergeant's written competitive promotional examination was administered to nine members of the Police Force on Saturday, June 10. The exam was graded the same day. At some point in the future, interviews will need to be conducted with the candidates.
- D. Revisions to the Merit Commission's Rules and Regulations: At the request of Commissioner Corrigan in February 2006, Commission Rules and Regulations were carefully reviewed by Commissioner Weber. They were also compared to the applicable Indiana Code. The following changes were recommended:
 - 1) Commissioner Weber moved "to revise Article I.B. (6) a) on page I-1 to read, *"keep the minutes of all meetings."*" After discussion, the motion was unanimously adopted.
 - 2) Commissioner Weber moved "to revise Article I.B. (6) c) to read, *"deleted."*" After discussion, the motion was unanimously adopted.
 - 3) Commissioner Weber moved "to revise Article I.D. (1) to read, *"Permanent Record. A permanent record of all acts and actions of the Commission shall be maintained by the West Lafayette Clerk-Treasurer."*" After discussion, the motion was unanimously adopted.
 - 4) Commissioner Weber moved "to revise Article I.C. (5) b) to read, *"The Secretary shall coordinate with the Office of the West Lafayette Clerk-Treasurer to notify the media by January 1 of each year of the regular meeting dates for the coming year. The Secretary or his/her designee will also provide notice to the media of any special meetings at least 48 hours in advance of the special meeting."*" After discussion, the motion was unanimously adopted.
 - 5) Commissioner Weber moved "to revise Article I.D. (5) to read, *"Transcript to Court Within Thirty (30) Days After Summons Issued On Appeal From Any Order or Finding of the Commission. A certified copy, certified by the President or the Vice-President and the Secretary, shall be delivered and filed in the court having jurisdiction of any appeal from any order or finding of the Commission within*

thirty (30) days after service of summons.”” After discussion, the motion was unanimously adopted.

6) Commissioner Weber moved “to revise Article I.G. (5) to read, “Permanent Record of Rules and Regulations. *All rules and regulations shall be kept in a permanent record, properly indexed, for ready reference. The master copy of this permanent record of rules and regulations shall be maintained by the West Lafayette Clerk-Treasurer or other designee.”” After discussion, the motion was unanimously adopted.*

7) Commissioner Weber moved “to revise Article II.C. (1) to read, “Physical Agility Test. *The Commission adopts the Indiana Law Enforcement Academy physical fitness exit standards as the minimum standard for applicants. These physical fitness standards do not discriminate on the basis of sex and reflect the essential functions of the job. These standards may be amended from time to time. An applicant must meet or exceed the physical fitness standards in existence at time of application to be eligible to take the aptitude test and be considered for employment.”” After discussion, the motion was unanimously adopted.*

8) Commissioner Weber moved “to revise Article III.E (10) a) to read, “*Members shall not possess or consume intoxicating liquors of any kind while on duty or in uniform. In the event of a special investigation or undercover work, this rule may be waived by the Chief of Police, to the extent that drinking intoxicating liquor may be permitted, but never to the extent of intoxication in such an assignment.”” After discussion, the motion was unanimously adopted.*

9) Commissioner Weber moved “to revise Article IV.A.(1) b) to read, “neglect of duty:

Elements. Neglect of duties.

(a) That the accused had certain duties;

(b) That the accused knew or reasonably should have known of the duties; and

(c) That the accused was (willfully) (through neglect or culpable inefficiency) derelict in the performance of those duties

Explanation of neglect of duties.

(a) Duty. A duty may be imposed by statute, regulation, lawful order, or standard operating procedure.

(b) Knowledge. Actual knowledge of duties may be proved by circumstantial evidence. Actual knowledge need not be shown if the individual reasonably should have known of the duties. This may be demonstrated by regulations, training or

operating manuals, or testimony, testimony of persons who have held similar or superior positions, or similar evidence.

(c) Derelict. A person is derelict in the performance of duties when that person willfully or negligently fails to perform that person's duties or when that person performs them in a culpably inefficient manner. "Willfully" means intentionally. It refers to the doing of an act knowingly and purposely, specifically intending the natural and probable consequences of the act. "Negligently" means an act or omission of a person who is under a duty to use due care which exhibits a lack of that degree of care which a reasonably prudent person would have exercised under the same or similar circumstances. "Culpable inefficiency" is inefficiency for which there is no reasonable or just excuse.

(d) Ineptitude. A person is not derelict in the performance of duties if the failure to perform those duties is caused by ineptitude rather than by willfulness, negligence, or culpable inefficiency, and may not be charged under this article, or otherwise punished: "" After discussion, the motion was adopted by a vote of 3 to 1.

10) Commissioner Weber moved "to revise Article IV.A. (1) c) to read, "neglect or disobedience of orders:

Elements. Neglect or disobedience of orders.

(a) That there was in effect a certain lawful order or regulation;

(b) That the accused had a duty to obey it; and

(c) That the accused violated or failed to obey the order or regulation. "" After discussion, the motion was unanimously adopted.

11) Commissioner Weber moved "to revise Article IV.A. (1) e) to read, "absence without leave:

Elements. Absence without leave.

(a) That a certain authority appointed a certain time and place of duty for the accused;

(b) That the accused knew of that time and place; and

(c) That the accused, without authority, failed to go to the appointed place of duty at the time prescribed, or went from the appointed place of duty after having reported at such place. "" After discussion, the motion was unanimously adopted.

12) Commissioner Weber moved “to revise Article IV.A.(1) f) to read, “immoral conduct: *This offense is defined in Article III.E.(54) of these rules and regulations.*”” After discussion, the motion was unanimously adopted.

13) Commissioner Weber moved “to revise Article IV.A.(1) h) to read, “conduct unbecoming a member: *This offense is defined in Article III.E.(1) of these rules and regulations.*”” After discussion, the motion was unanimously adopted.

14) Commissioner Weber moved “to revise Article II.D. Commission scoring area (2) to read, “*criminal background check – 15%*”” After discussion, the motion was unanimously adopted.

15) Commissioner Leverenz moved “to place the three definitions adopted in Article III instead of Article IV.” After discussion, Commissioner Leverenz moved to amend the motion “to move the neglect of duty definition, neglect or disobedience of orders definition, and absent without leave definition to Article III.E where they would logically fall into that list and have the new definition of neglect of duty replace the existing definition [III.E(15)]. Put cross references in Article IV back to Article III.” After discussion, the amendment was passed unanimously. The amended motion was unanimously adopted.

16) Commissioner Weber moved “to revise Article V.D.(6) b) to read, “*The member may review the test questions which were incorrectly answered by him and challenge the answers considered correct by the test examiner.*”” After discussion, the motion was unanimously adopted.

17) Commissioner Weber moved “to revise Article II.F to read, “*Filling Vacancies.* *The Chief shall notify the Commission in writing when a vacancy occurs in the department. The Commission President with one other Commissioner shall check the eligibility list and the Commission President shall then provide the Chief with the name of the applicant having the highest score on the eligibility list. Other Commission members should be notified of the name that has been provided, with the Secretary updating the master eligibility list to reflect this. The applicant must then:*”” After discussion, the motion was unanimously adopted.

18) Commissioner Weber moved “to add new Article I.B.(6) f) to read, “*Maintain the eligibility list of applicants.*”” After discussion, the motion was unanimously adopted.

19) Commissioner Weber moved “to revise Article II.C.(3) to read, “*Biennial Review.* *The Commission shall review the tests at least once every two years.*”” After discussion, Commissioner Leverenz moved to amend the motion to read “*The Commission shall review all aspects of the testing process at least once every two years.*” After further discussion, the amendment was unanimously adopted. The amended motion was unanimously adopted.

20) Commissioner Weber moved “to revise Article I.D.(2) to read, “Confirmation of Records of Prior Meeting. *The first order of business of any regular meeting shall be the reading of the minutes of the previous meeting. At such time, the record may be amended, corrected or modified before final confirmation. The rescission, amendment, modification or affirmation of a prior action shall be noted on the margin of the record pertaining to the original action, as well as in full detail in the records of the subsequent meeting at which the modifying action was taken.* ”” After discussion, the motion was unanimously adopted.

21) Commissioner Weber moved “to add new Article I.G.(7) to read, “Amendments to the rules. *Amendments to the rules take effect thirty (30) days after their adoption if copies have been furnished to all members of the department within that period. Otherwise, they do not take effect until copies are furnished to all members of the department. The Chief will inform the Commission of the date on which copies have been furnished to all members of the department.* ”” After discussion, Commissioner Corrigan moved to amend the motion to read “Amendments to the rules. *Amendments to the rules shall take effect upon such time as all members of the department have been furnished copies, or thirty (30) days after their adoption, whichever occurs later. The Chief will inform the Commission of the date on which copies have been furnished to all members of the department.* ”” The amendment was approved unanimously. The amended motion was approved unanimously.

22) Commissioner Weber moved “to revise Article V.D.(3) to read, “Administration. *Preparation and grading of the written promotional examinations shall be under the administration of the Commission. In no event shall the persons grading the examinations be permitted to know the names of the member who has written the examination which is being graded...* ”” After discussion, the motion was unanimously adopted.

23) Commissioner Weber moved “to revise Article II.L to be II.J so that Articles are in sequential alphabetical order.” After discussion, the motion was unanimously adopted.

24) Commissioner Weber moved “to revise the second “V.G” to be “V.H” and “V.H” to be “V.I” so that Articles are in sequential alphabetical order with no letters repeated.” After discussion, the motion was unanimously adopted.

25) Commissioner Weber moved “to add new Article II.K to read, “Furnishing Information to Applicants. *A commissioner who knowingly furnishes information to an applicant for original appointment that gives that person an advantage over another person commits a Class D felony.*” Also add new Article V.J to read, “Furnishing Information to Members Eligible for Promotion. *A commissioner who knowingly furnishes information to a member eligible for promotion that gives that person an advantage over another person commits a Class D felony.* ”” After discussion, the motion was unanimously adopted.

26) Commissioner Weber moved “to revise Article V.C to read, “Eligibility List. *The Commission shall establish an eligibility list for promotion. The eligibility list for a position consists of members who have been placed on the list in the order of their cumulative score on all rating factors. The eligibility list shall be maintained for two (2) years from the date of certification, after which time the list shall be retired and a new list established. The retired list shall be kept for five (5) years and then destroyed.”*” After discussion, the motion was unanimously adopted.

27) Commissioner Weber moved “the adoption of the Table of Contents document dated 16 April 2006, List of Effective Pages document dated 9 May 2006, Index document dated 9 May 2006, and Distribution document dated 9 May 2006 and that the Commission Secretary be authorized to make corrections as necessary to the Table of Contents, Index, and List of Effective Pages as required in light of amendments to our rules.” After discussion, the motion was unanimously adopted.

NEW BUSINESS

A. Upcoming Commission work: Commission President Polles reported that new applicant interviews by the Police Review Board will start on June 19th. The Commission will need to interview them after the Police Review Board. Interviews with those that took the Sergeant’s competitive promotional examination on June 10th are also required. Clerk-Treasurer Rhodes reported that budget presentations are due on June 20. Commission President Polles will consult with Clerk-Treasurer Rhodes and Mayor Mills on the budget. Commissioners checked their calendars and determined that an Executive Session will be held on Wednesday, June 21 at 7:00 pm in the Police Department Conference Room (Room 105) to receive information about prospective employees. Commission President Polles requested that Commissioners bring their calendars to the July regular meeting to determine dates for upcoming Commission work.

ITEMS FROM THE FLOOR

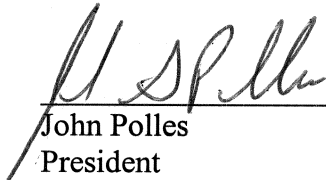
None.

PUBLIC COMMENTS

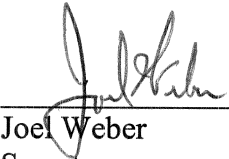
None.

ADJOURNMENT

The meeting adjourned at 9:43 pm.



John Polles
President



Joel Weber
Secretary

WEST LAFAYETTE POLICE MERIT COMMISSION
Meeting Agenda, 12 June 2006
7:30 P.M., Council Chambers, City Hall

Opening

Pledge of Allegiance
Roll Call
Approval of Minutes
 for Meeting on 8 May 2006
 for Executive Session on 22 May 2006
 for Special Meeting on 7 June 2006

Old Business

Promotion of SGT Gallagher to Lieutenant (Commissioner Polles and Chief Marvin)
Signing of Findings and Orders from the disciplinary hearing (Polles)
Update on the sergeant's exam (Commissioner Weber)
Proposed revisions of the Merit Commission's Rules and Regulations (Weber)

New Business

Preliminary planning discussion on the dates/timing of new applicants' interviews, promotion to sergeant interviews, budget submission (Polles)

Items from the Floor

Public Comments

Adjournment